

A special meeting of the City Planning Board was held on April 7, 2010 in the Second Floor Conference Room in City Hall at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Swope, and Shurtleff (representing the City Council). Messrs. Woodward and Henninger and Ms. Osgood of the City Planning Division were also present.

At 7:05 PM there was no quorum and the Chair called the meeting to order to review the results of the public forums sponsored by Concord 2020. He noted that no formal action could be taken since there was not a quorum.

### **New Business**

1. Review of the results of the Public Forums sponsored by Concord 2020 as part of the review process for the Concord Zoning Ordinance in preparation for a joint meeting of all City Boards and Commissions on Tuesday, April 13, 2010 from 7 to 9 PM.

Mr. Woodward explained that the Planning Board had received copies of reports from other boards and commissions. There was also a report from the Planning Division discussing some, but not all, of the issues that had emerged in the public review of the Zoning Ordinance. He reported that the Board had representatives at both public forums held recently.

Mr. Woodward reported that Ms. Dolcino was unable to attend tonight's meeting but had submitted comments for the Board's consideration.

He started with a discussion of customer service as referred to in Ms. Dolcino's communication. She mentioned comments she had heard at one of the forums where residents expressed frustration about how confusing the zoning and subdivision regulations are and how unfriendly the process can be for the uninitiated. She suggested that the City work on a consumer-friendly guide to land use regulation, which would include both a guide for residents seeking approval from the Planning Board or Zoning Board of Adjustment and a guide for those who wished to testify at hearings. Mr. Drypolcher noted that he has at times been frustrated in researching one of the City's regulations and needing to use a link to another document. That usually closes the original document and he then has to start over.

Mr. Woodward mentioned that the Zoning Ordinance as displayed on the City's website is a contract service with MuniCode, and he suggested approaching them to see if they could provide links that would make it easier for a lay person to use the Ordinance. Members present felt that while this may not be the time to be asking for additional expenditures, this was worthy of pursuing.

Mr. Woodward reported that a point that was discussed at the forums related to small subdivisions under the mandatory cluster development ordinance, and whether the open space generated from these subdivisions had real value. A number of these small subdivisions have occurred and some have had value in terms of relating to other open space or environmental features that are deemed desirable to protect. One misconception is that the open space must be accessible to the public to have value. Wildlife habitat and corridors also have value as does protection of sensitive environmental features such as wetlands or erodible slopes which could be damaged by public access.

He suggested that one approach to small subdivisions might be to use a concept broached as part of the Transfer of Development Rights discussion to indicate that the requirement for open space could be fulfilled by a payment at a comparable per-acre value into the Conservation Trust in lieu of dedication of land. A Conditional Use Permit process already exists to allow for an off-site dedication of open space and the CUP for a payment in lieu of dedication could allow the Conservation Commission to comment on the open space value or lack thereof for each CUP application. This approach will need more effort to flesh it out, but it appeared to those present to have merit.

He reported that other issues raised include the application of the 60% open space requirement to large lots from which only one lot is being subdivided, and the contiguous buildable open space being hard to achieve. These issues can be reviewed.

He reported that the Conservation Commission has been struggling with stewardship aspects of owning open space land or easements. The larger groups like the Forest Society have mechanisms in place but the Conservation Commission is still struggling with this. The Forest Society charges stewardship fees as does the Five Rivers Trust.

Another topic discussed at the public forums was accessory apartments. Mr. Woodward reported that this topic was explored and ultimately rejected by the Citizen Zoning Advisory Committee during the formation of the current ordinance, but it has resurfaced with the recognition that such dwellings cannot be limited to relatives (these were formerly referred to as 'mother-in-law' apartments). There are a variety of considerations for implementing provisions for accessory dwelling units including size of the accessory unit in relation to the principal dwelling, shared or separate entries, owner occupancy of the primary unit, and available parking, among other matters. Another concern relates to the location of these outside of the Urban Growth Boundary where there are no municipal utilities. The City has sought to ensure that dwelling units all have individual wells and septic systems, which has been simple with only single unit residences allowed in the RO District. It also raises the issue of whether the units could be converted to condominiums despite one being accessory to the other. Again, more effort will be required to develop a viable regulation.

Mr. Swope considered the requirement that the primary unit be owner occupied to be critical to a provision of this kind. Mr. Woodward felt there would need to be legal advice about whether the City could prohibit condominium ownership and/or force owner occupied primary units.

Mr. Woodward reported that clarification is needed to ensure the understanding that the Design Review Committee is an advisory committee convened by the Planning Board to provide advice to the Board on design matters and has no power or authority on its own. The Architectural Design authority is conferred on the Planning Board pursuant to the innovative land use statute.

Mr. Woodward reported that much of the discussion at the forums related to changes to the Urban Growth Boundary. He explained that the Planning Board had invited recommendations on changes to the Urban Growth Boundary during the Master Plan process. No requests for changes were received. The key elements to expanding the UGB are existence of buildable land and the ability to service such land with municipal water and sewer and access it with transportation infrastructure. This may entail planning for new sewer pumps or water tanks.

The UGB can be altered by amendment to the Master Plan with subsequent related changes to the Zoning Ordinance. There may need to be related projects added to the City's Capital Improvement Program to assist with the provision of the necessary infrastructure.

As noted in the Planning Board's list of Master Plan implementation items, increased density can be fostered through proposals for Transfer of Development Rights, and Traditional Neighborhood Development, as well as revised dimensional and density standards for the respective sections of the Opportunity Corridor.

He reported that Planning Board/Zoning Board overlap/Shift of provisions to Site Plan Review Regulations was also a topic of some discussion at the forums. He explained that a case where a use is allowed by Special Exception and Site Plan Approval is required for site development does not constitute an inappropriate or duplicative review. Where overlap may occur is when variances are sought to provisions in the Zoning Ordinance and then waivers may need to be requested to certain provisions of the Site Plan Review Regulations. There is no predictability associated with the focus of variance applications.

Some zoning provisions may be possible to be shifted into the Site Plan Review Regulations but it must be noted that not all land development matters are subject to site plan approval, and some provision may need to be added in the Zoning Ordinance in accordance with the statutory authorizations. Proposals for shifting of provisions will need review on a case by case basis.

There was a discussion about the lack of staffing and reporting to the Zoning Board of Adjustment that would help guide Zoning Board members in making their decisions. Members suggested that the Zoning Board of Adjustment could use more staff support.

Mr. Woodward reported that another issue that came up at the forums was parking standards. He explained that the City has used industry standards in its requirements and staff is now working to fine tune the requirements. There was also a request for provision of a Conditional Use Permit for stacking spaces for drive-up windows. He noted that one problem with a Conditional Use Permit for stacking is that the queue line is built into the entire site design and there are limits to what can be done to mitigate a problem if there is one later.

Mr. Woodward mentioned the suburban districts such as the RS District, where the density is on 3-3 ½ units per acre with utilities, and indicated that he felt some work needed to be done to increase density for these districts to make them a little more efficient to develop in the future.

There was no further business to come before the Board and the meeting adjourned at 8:10 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk

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